

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13512 of James H. Demetroulis and Brian M. Robidoux, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the rear yard requirements (Sub-section 3304.1 and Paragraph 7107.22) the open court width requirements (Sub-section 3306.1 and Paragraph 7107.22) the lot occupancy requirements (Sub-section 3303.1 and Paragraph 7107.23) and from the prohibition against allowing an addition to a non-conforming structure which now exceeds the allowable percentage of lot occupancy (Paragraph 7107.21) to construct a second story rear deck to a non-conforming dwelling in an R-4 District at the premises 514 7th Street, N.E., (Square 861, Lot 102).

HEARING DATE: July 15, 1981

DECISION DATE: September 2, 1981

FINDINGS OF FACT:

1. The subject property is located on the west side of 7th Street between E and F Streets and is known as premises 514 7th Street, N.E. It is in an R-4 District.
2. The subject lot area comprises 1,069.50 square feet and is improved with a two story and basement, brick, row structure.
3. The subject property is non-conforming in that its lot area and lot width are less than that required for an R-4 District. It is also non-conforming in that it exceeds the lot occupancy requirements of the Zoning Regulations. The structure measures 15.50 feet on the 7th Street frontage for a depth of 32.0 feet. Its width then decreases by 3.5 feet for a distance of 22.0 feet.
4. The applicant proposes to construct a second story rear open deck. It will not be built over any existing rear structure but will be supported by two posts.
5. The addition will comprise 124 square feet. The applicant seeks a variance of 190.30 square feet from the lot occupancy requirements, a five foot variance from the rear yard requirements and a 2.50 foot variance from the open court requirements. The applicant also seeks relief from the prohibition against allowing an addition to a non-conforming structure which now exceeds the lot occupancy requirements.

6. The purpose of the addition is to allow some more living space to a small house.

7. The row dwellings to the north and south of the subject site have no rear additions. The applicant did not know if there were any other rear additions on the west side of the subject street.

8. A petition of forty signatures of residents in the immediate area in favor of the application was submitted to the record. The petition did not contain the names of the owners of the adjacent property to the north and south. The applicants had not contacted the abutting owners to review their plans.

9. There is no testimony or evidence in the record, that the property is affected by any exceptional or extraordinary condition or situation.

10. There is no testimony or evidence in the record to indicate that the owners of the property will suffer any practical difficulty if the application is denied and the regulations are strictly applied.

11. The proposed deck will interfere with the light and air of the adjacent properties since it is located at the second floor level, and the floor of the deck will obstruct light and air to the first floor level.

12. The record was left open at the end of the public hearing for the applicant to seek a recommendation from the adjacent property owners. Such evidence was never submitted to the record.

13. There was no opposition to the application at the public hearing or of record.

14. Advisory Neighborhood Commission - 6A, by letter of July 14, 1981, advised that due to lack of sufficient information, the ANC will not take a position on the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the requested variances are area variances, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner.

The Board concludes that the applicants have demonstrated no exceptional or exceptional or extraordinary condition and have demonstrated no practical difficulty that they will suffer if the application is denied. The Board further concludes that the requested relief cannot be granted without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is DENIED.

VOTE: 5-0 (Lindsley Williams, Charles R. Norris, William F. McIntosh, Douglas J. Patton and Connie Fortune to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 17 NOV 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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HEARING DATE: July 15, 1981
DECISION DATE: September 2, 1981

DISPOSITION: The Board DENIED the application by a vote of 5-0 (Lindsley Williams, Charles R. Norris, William F. McIntosh, Douglas J. Patton and Connie Fortune to DENY).

FINAL DATE OF ORDER: November 17, 1981

ORDER

The applicants, on December 2, 1981, filed a Motion for Reconsideration of the Denial of the application. The Motion alleged that the Board made errors in its Findings of Facts Nos. 7, 8 and 11. The Board notes that the applicants were not present at the public hearing but were represented by their authorized agent, Mr. B.W. Spriggs. Upon a review of the transcript of the public hearing of July 15, 1981, the Board finds that the evidence submitted in support of the Motion for Reconsideration contradicts the evidence and testimony that was given at the public hearing by Mr. Spriggs. As to Finding No. 7, Mr. Spriggs testified at the public hearing that the applicants had not reviewed their proposed plans with the abutting property owners. As to Finding No. 8, Mr. Spriggs testified at the public hearing that the abutting property owners had no new additions to their properties and that he did not know whether there were such additions to other dwellings on the same street. As to Finding No. 11, the Motion for Reconsideration is argumentative. No new evidence has been submitted to contradict the Board's finding that the proposed deck would interfere with the light and air to the adjacent properties. The Board finds that as to Findings Nos. 7 and 8 the applicants attempt to introduce evidence that should have been available at the public hearing and which would have been subject to crossexamination.


The Board concludes that the decision of September 2, 1981 was based on the record. Upon consideration of the transcript, the Final Order and the subject Motion for Reconsideration, the Board concludes that it made no errors of fact or law.

Accordingly, it is ORDERED that the Motion for Reconsideration is DENIED.

VOTE: 4-0 (Charles R. Norris, Lindsley Williams, Charles R. Norris and Connie Fortune to deny; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

MAR - 4 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."